

In the matter of: )  
 )  
Business Meeting )  
 )  
\_\_\_\_\_ )

WEDNESDAY, MAY 19, 2004

10:00 A.M.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

James Boyd

William J. Keese

Arthur H. Rosenfeld

John L. Geesman

Jackalyne Pfannenstiel

STAFF PRESENT

William Chamberlain, Chief Counsel

Song Her, Acting-Secretariat

Jonathan Blee

Major Williams

Tim Tutt

Melinda Merritt

Richard Buell

Joseph Wang

Gabe Herrera

Mike Magaletti

Valerie Hall

PUBLIC ADVISOR

Margret J. Kim

ALSO PRESENT

Mary Ann Dickinson,  
California Urban Water Conservation Council

Les Guliassi,  
Pacific Gas & Electric

ALSO PRESENT, continued

Nancy Rader,  
California Wind Energy Association

Manuel Alvarez,  
SCE

Jeff Lam,  
PowerEx Corporation

Yolanda Huang

Steve Kelly,  
Independent Energy Producers

Jeffrey Twitchell,  
Water Purveyors & Small Hydro

Stan Van Vleck,  
Association Home Appliance Manufacturers

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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## 1 P R O O C E E D I N G S

2 CHAIRMAN KEESE: Call the meeting of the  
3 Energy Commission to order.

4 We'll recite the pledge.

5 (Thereupon the Pledge of Allegiance was  
6 recited in unison.)

7 CHAIRMAN KEESE: Good morning everyone.

8 Move consent calendar?

9 COMMISSIONER BOYD: So moved, Mr. Chairman.

10 COMMISSIONER GEESMAN: Second.

11 CHAIRMAN KEESE: Motion and second. All in  
12 favor?

13 (Ayes.)

14 CHAIRMAN KEESE: Opposed?

15 Adopted four to nothing.

16 Item 2, Residential Clothes Washer Standards.

17 Possible readoption of revised standards for  
18 residential clothes washers to provide notice of  
19 documents relied on and to correct typographical  
20 errors.

21 Mr. Blees.

22 MR. BLEES: Thank you, Mr. Chairman,  
23 Commissioners.

24 In late 2002, the legislature directed the  
25 Commission to adopt water efficiency standards for

1 residential clothes washers, and in response, the  
2 Commission instituted rulemaking in 2003 on that  
3 appliance and other appliances.

4 This past February, the Commission adopted  
5 new standards for residential clothes washers and  
6 submitted them to the Office of Administrative  
7 Law. Unfortunately, OAL notified us that we had  
8 failed to comply with a couple of procedural  
9 requirements of the Administrative Procedures Act.  
10 The Commission withdrew the regulations from OAL,  
11 corrected the procedural errors, and the standards  
12 are now back before you for readoption. You have  
13 the draft adoption order in your back-up package.

14 To my knowledge, no further comments since  
15 the February original adoption have been received  
16 on this matter.

17 CHAIRMAN KEESE: Thank you.

18 Do I have a motion?

19 COMMISSIONER PFANNENSTIEL: So moved.

20 COMMISSIONER ROSENFELD: Second.

21 CHAIRMAN KEESE: Motion Pfannenstiel, second  
22 Rosenfeld.

23 Is there any opposition to this?

24 Ms. Dickinson did you care to speak briefly?

25 MS. DICKINSON: Briefly. I don't wish to

1 belabor this point, but I just wanted to appear  
2 again before the Commission to make sure our  
3 original comments are entered into the record and  
4 to show our support.

5 CHAIRMAN KEESE: Thank you. On behalf of the  
6 California Urban Water Conservation Council.

7 We have a motion and second. All in favor?

8 (Ayes.)

9 CHAIRMAN KEESE: Opposed?

10 Adopted five to nothing.

11 Thank you.

12 Item 3, Kings River Conservation District.  
13 Commission consideration and possible adoption of  
14 the Presiding Member's Proposed Decision approving  
15 the Kings River Conservation District Peaking  
16 Plant.

17 Mr. Williams.

18 MR. WILLIAMS: Good morning, Mr. Chairman,  
19 Commissioners. Welcome to the Energy Commission,  
20 Commissioner Pfannenstiel.

21 COMMISSIONER PFANNENSTIEL: Thank you.

22 MR. WILLIAMS: I am Major Williams, Jr., the  
23 hearing officer for the Kings River Conversation  
24 District Peaker Project, a small power plant  
25 exemption or SPPE matter.



1           The Commission may exempt a project not  
2           exceeding one hundred megawatts in capacity from  
3           its licensing process if it finds that no  
4           substantial adverse impacts on the environment or  
5           on energy resources will result from the  
6           construction or the operation of a project. This  
7           is known as the Small Power Plant Exemption  
8           process and the Committee has made those  
9           determinations in favor of an exemption for the  
10          Kings River Peaker Project.

11          The project now will remain subject to  
12          applicable local permitting requirements and the  
13          conditions of exemption set forth in the  
14          Commission decision.

15          The Committee is Commissioner Boyd who  
16          presided and the Chairman as the second member.  
17          On April 14, the Committee issued the Kings River  
18          Presiding Members Proposed Decision, and on May  
19          18, 2004, the committee issued an errata that  
20          clarified some minor language points therein.

21          Accordingly, except for the nonsubstantive  
22          changes as set forth in the committee's errata,  
23          the PMPD in this matter is fully supported by the  
24          record.

25          The Kings River Peaker Project is a 97-

1 megawatt electric generation plant which will  
2 occupy approximately 9.5 acres of a 19-acre site  
3 located in an existing industrially zoned area  
4 near the community of Malaga in Fresno county.

5 The proposed project will consist of two natural  
6 gas fired simple cycle combustion turbine  
7 generators for peaking power generation that will  
8 be located together on a single common site.

9 The best available technology for the control  
10 of NOX and carbon monoxide emissions will include  
11 a selective catalytic reduction system which  
12 utilizes aqueous ammonia and the use of an  
13 oxidation catalyst. A quarter mile of new  
14 overhead 115 KV transmission line, 700 feet of new  
15 underground 8-inch diameter gas supply pipeline,  
16 2000 feet of new underground water and wastewater  
17 pipelines to the Malaga County Water District's  
18 local facilities. A zero liquid discharge system  
19 will allow for recycling and waste streams to be  
20 reused within the facility. And finally, rezoning  
21 is not required to permit the project.

22 Mr. Chairman, that's the introduction to the  
23 matter that I have.

24 CHAIRMAN KEESE: Thank you.

25 Do we have a motion?

1 COMMISSIONER BOYD: Mr. Chairman, I'd like to  
2 move adoption.

3 CHAIRMAN KEESE: Motion Commissioner Boyd.

4 COMMISSIONER GEESMAN: Second.

5 CHAIRMAN KEESE: Second Commissioner Geesman.

6 Any discussion?

7 COMMISSIONER GEESMAN: I would simply say,  
8 Mr. Chairman, I'm glad to see this district in  
9 this particular business and I hope that they can  
10 pursue this kind of project. I also note the  
11 presence in the audience of both the deputy  
12 general manager and their quite distinguished  
13 counsel, who I have some experience with in years  
14 past.

15 CHAIRMAN KEESE: Thank you.

16 We have a motion and a second. All in favor?

17 (Ayes.)

18 CHAIRMAN KEESE: Opposed?

19 Adopted five to nothing.

20 COMMISSIONER BOYD: Mr. Chairman, I'd just  
21 like to say that I wish all power plant cases went  
22 this smoothly and efficiently as this one did. I  
23 would like to thank the staff and the proponents.

24 CHAIRMAN KEESE: Thank you.

25 Item 4, Renewables Portfolio Standard

1 Program. Potential adoption of changes to the  
2 Renewables Portfolio Standard Eligibility  
3 Guidebook, originally adopted April 21, 2004,  
4 including revisions.

5 MR. TUTT: Good morning, Chairman Keese,  
6 Commissioners. My name is Tim Tutt. I'm the  
7 technical director of the Renewable Energy  
8 Program.

9 The item before you today is a series of  
10 changes that we are proposing in our RPS  
11 Eligibility Guidebook, which was adopted by the  
12 Commission on April 21st. The changes we are  
13 proposing involve first for hybrid systems, we are  
14 suggesting that facilities that are built as a  
15 result of an interim solicitation will continue to  
16 be figured under the old rules of the program  
17 where up to 25 percent fossil fuels could be used.  
18 And also that if a facility is QF certified  
19 pursuant to ERPA, that they can use the amount of  
20 fossil fuel that is allowed under that  
21 certification, which is specific case by case to  
22 each facility, depending on what fossil fuel they  
23 need for their operations, usually a small  
24 percentage.

25 We're also making some changes in how

1 utilities can certify facilities for the RPS.  
2 Typically, we expect the facilities themselves to  
3 certify, but for some of the existing generators  
4 already under contract with the utilities, we have  
5 allowed the possibility of a utility certifying  
6 those generators, and we're just clarifying how  
7 that happens in the schedule change.

8 We're clarifying that for pump storage  
9 hydroelectric, we're not really certifying  
10 storage, we're just clarifying that pump storage  
11 is not treated as small hydro per se, but as  
12 whatever pumps energy out into the facility.

13 And a variety of changes for out-of-state  
14 facilities that to qualify for the RPS, we removed  
15 a condition in the guidebook that the facilities  
16 would have to meet any other condition established  
17 by the Energy Commission in the future, sure to  
18 have that condition in there.

19 And that's a summary of the major changes  
20 that we have made in response to the parties  
21 comments, and I encourage your adoption of the  
22 item.

23 CHAIRMAN KEESE: Thank you.

24 And we have five members who would like to  
25 speak to this. Does anybody on the Commission

1 care to speak first?

2 MR. HERRERA: Chairman Keese, can I comment?

3 CHAIRMAN KEESE: Certainly.

4 MR. HERRERA: Gabe Herrera, I'm with the  
5 Commission's legal office.

6 I recall this item during the public  
7 discussion that preceded the adoption of the  
8 guidelines at the April 21st business meeting, a  
9 member of the public raised CEQA and its  
10 application to the adoption of the RPS guidelines.  
11 The Commissioners recommended that the legal  
12 office take a look at that issue, that we then  
13 brief the renewables committee and then come back  
14 with recommendations.

15 We've done that, the legal office has taken a  
16 look at CEQA and its application to the RPS  
17 guidelines, and it has concluded that the adoption  
18 of the RPS guidelines is not a project under CEQA,  
19 and even if one makes an argument that it is, it  
20 is nevertheless subject to one of the exemptions  
21 from CEQA.

22 A memo was prepared and submitted to the  
23 renewables committee on Monday and that memo will  
24 be docketed for the record and will be publicly  
25 available to individuals who ask the question

1       whether the adoption of the guidelines is in fact  
2       a project under CEQA.

3           CHAIRMAN KEESE:  Thank you.

4           Mr. Guliassi.

5           MR. GULIASI:  Good morning, Commissioners.  
6       I'm here to speak in support of your adoption of  
7       these changes to the guidebooks.  When you  
8       initially adopted the guidebooks a few weeks ago,  
9       I think you took an important step necessary in  
10      ensuring that we have a successful program for  
11      renewables in the state of California and we can  
12      successfully implement Senate Bill 1078.

13           PG&E participated in the process here; we  
14      participated in workshops as the guidebooks were  
15      being developed; we submitted written comments in  
16      two rounds; first on the initial draft guidebooks,  
17      and then prior to your adoption of the guidebooks  
18      in April; we submitted further comments on those  
19      drafts.

20           We had a couple of concerns with the  
21      guidelines as they were initially written,  
22      particularly with the certification process.  We  
23      were concerned with the way the process was going  
24      to be administered, by whom it was going to be  
25      administered.  We were concerned about the audit

1 program or the inspection program. We were also  
2 concerned about the process to ensure that the  
3 utilities would get credit for meeting the  
4 renewable goal with the renewables that we  
5 currently have, whether existing contracts.

6 We believe that the guidebook that you  
7 adopted in April by and large addressed those  
8 issues. And you didn't accept all of our  
9 comments, but you did take careful consideration  
10 of the concerns that we had with respect to the  
11 certification process.

12 The additional changes that you're making  
13 today I think will take a further step toward  
14 clarifying the eligibility rules and certification  
15 process.

16 I want to thank the staff, especially Tim  
17 Tutt and Heather Wright, for their careful  
18 consideration of our comments and I'd urge you to  
19 adopt the changes that Tim described.

20 Thank you very much.

21 CHAIRMAN KEESE: Nancy Rader.

22 MS. RADER: Good morning, Chairman and  
23 Commissioners. My name is Nancy Rader with the  
24 California Wind Energy Association or CalWEA.

25 I am here to give voice to comments submitted



1 on Monday jointly by CalWEA and Matt Freedman of  
2 the Utility Reform Network or TURN.

3 We would like to urge the Commission to  
4 reject the proposed revision to the small hydro  
5 eligibility section and to revise the out-of-state  
6 eligibility requirements. Without taking these  
7 actions, the combined effect will be to allow more  
8 than 8,600 megawatts of existing out-of-state  
9 renewable power to become eligible to satisfy the  
10 RPS requirement for in-state retail sellers, and  
11 effectively, this will wipe out new renewables  
12 development for a long time.

13 You know, we've been raising this comment  
14 again and again and again and again, and it's  
15 never been explained to me -- particularly this  
16 last change to small hydro, which compounds the  
17 problem, the proposed revision compounds the  
18 problem.

19 It's never been explained to me why there's  
20 not a big problem here. TURN and CalWEA think  
21 there's a big problem here. We both spend a lot  
22 of time in statute trying to craft it so it would  
23 protect existing in-state renewables and promote  
24 new renewables in and out of state. But to make  
25 out of state renewables eligible is to sort of

1 flood our RPS market with stuff that's already out  
2 there and shifting electrons around potentially.

3 CHAIRMAN KEESE: Would you have the same  
4 position that California renewables should not be  
5 eligible in Arizona and Nevada?

6 MS. RADER: If that's what their statutes  
7 say. You know, Nevada has an in-state  
8 requirement. Yeah, I'm focused on our law and  
9 getting the intent out of it that I think the  
10 legislature intended.

11 So other states, I assume they have to craft  
12 their RPS --

13 CHAIRMAN KEESE: Yes, there's discussion of a  
14 western system.

15 MS. RADER: Yes. I mean if we had a western  
16 RPS that preserved existing levels of renewables  
17 and then added to that, we wouldn't need this kind  
18 of parochial preservation of our existing. But  
19 without that, and that would be great, and that's  
20 the best solution, but without that, this is  
21 really the only way to do it. It's ugly, you you,  
22 it's got problems, but if we don't do it, I think  
23 we risk our RPS being ineffective in promoting new  
24 renewables, not only in California, but in the  
25 west, and I don't think that's anybody's intent.

1           So in addition to that, we would urge you to  
2       reject the proposed revisions to the hydro systems  
3       which would allow new facilities using 25 percent  
4       natural gas and count that 25 percent natural gas  
5       renewable under the RPS. We think the proposal  
6       was right before and we would urge rejection of  
7       the proposed revision.

8           CHAIRMAN KEESE: Thank you.

9           MS. RADER: Thank you.

10          COMMISSIONER GEESMAN: Mr. Chairman, I'd like  
11       to hear from staff. I have not seen Ms. Rader's  
12       written comments, and she said that she had  
13       brought the issue up before, but I'm not familiar  
14       in how she brought it up before.

15          CHAIRMAN KEESE: Mr. Tutt.

16          MR. TUTT: Yes, Chairman Keese.

17          I had a conversation with Matt Freedman  
18       yesterday afternoon and he, along with Ms. Rader,  
19       had filed these comments here Monday for these  
20       proposed changes. Our intent of staff is to  
21       continue talking to Mr. Freedman and Ms. Rader  
22       about the changes. I have a tentative meeting set  
23       up with him next week.

24          And as you know, these are regulations or  
25       guidebooks that can be changed as we move forward.

1 I think the staff still has some differing views  
2 from Mr. Freedman and Ms. Rader to exactly the  
3 extent and the nature of the issues they  
4 described.

5 There are some legal issues, potentially  
6 Commerce Clause issues, and I think we can work  
7 out to our satisfaction further changes as we move  
8 forward in the guideline, if need be, or resolve  
9 the situation in that fashion. Certainly, we're  
10 open to listening to the issue.

11 Is there anything you want to add, Gabe?

12 MR. HERRERA: Yes, I do. There are some  
13 legal issues here and I think the Commission is  
14 aware of them. Certainly the renewables committee  
15 was briefed on them last year. You recall when  
16 SB-1038 was adopted, it had provisions that  
17 excluded the eligibility of out-of-state  
18 generators.

19 The legal office and OGA brought it to the  
20 attention of the renewables committee and the  
21 authors of 1038 this exclusion and the potential  
22 impacts with respect to the Commerce Clause. I  
23 mean the law on its face appeared to discriminate  
24 against out-of-state generators and that's  
25 certainly a problem with respect to the Commerce

1 Clause.

2 So we, in fact, suggested some proposed  
3 amendments that took shape in Senate Bill 67,  
4 Bowens' bill, which we believed addressed this  
5 issue and made out-of-state generators eligible  
6 for the RPS. And we think that was necessary to  
7 defend against any Commerce Clause challenges that  
8 may be brought.

9 COMMISSIONER GEESMAN: My recollection is  
10 that both Ms. Rader and Mr. Freedman last year  
11 were strong advocates of our taking steps to  
12 protect against any Commerce Clause attacks. So I  
13 guess as we go forward with this, I'd like a  
14 better sense, have they changed their spots or do  
15 we have a disagreement as to what the proposed  
16 changes actually would mean.

17 MR. TUTT: Some of the issues they've brought  
18 up are the result of changes that we've made since  
19 April 21st. For example, on small hydro  
20 eligibility, we changed the guidebook to reflect  
21 what we feel the law says that merchant small  
22 hydro is eligible for the RPS, existing merchant  
23 small hydro, that not under contract with an  
24 electrical corporation by a certain time. It is  
25 much of the existing small hydro that is outside

1 of California is in fact under contract to a  
2 California electrical corporation. And so that  
3 minimizes the problem that Ms. Rader is addressing  
4 here. In addition, another of the comments they  
5 raised in response to the changes we made for  
6 hydro technologies. Some of them are new issues  
7 that they're raising.

8 COMMISSIONER GEESMAN: I think Mr. Tutt  
9 outlines a good way to respond to this, Mr.  
10 Chairman, in that we should take action on these  
11 guidelines today and continue to sit down with Mr.  
12 Freedman and Ms. Rader and try and get a better  
13 sense as to the nature of their concerns.

14 CHAIRMAN KEESE: Thank you.

15 COMMISSIONER GEESMAN: I would offer a motion  
16 to adopt the guidelines when you feel that's  
17 appropriate.

18 CHAIRMAN KEESE: All right. Let's wait a few  
19 minutes here.

20 Mr. Alvarez.

21 MR. ALVAREZ: Good morning, Commissioners.  
22 Manuel Alvarez, Southern California Edison.

23 Edison is here to support the guidelines that  
24 are proposed with one point of clarification that  
25 we'd like to bring to the Commission's attention.

1           We did participate in the staff workshops and  
2       filed comments to the committee and the staff and  
3       have worked very closely with the staff trying to  
4       resolve our issues. The one issue I want to bring  
5       to your attention is a compliance matter for us  
6       and that involves page 24 of the guidebook where  
7       various documents and information is being  
8       requested of the IOUs once certification of a  
9       renewable project is met.

10           I still have a difficulty over how I meet  
11       that compliance. So it's a compliance question  
12       and I'm trying to get some clarification on what  
13       information and what documents in the possession  
14       of the utility satisfy that requirement. We've  
15       explored issues of contracts and quarterly filings  
16       on QF information and annual filings. So that's  
17       still an item that I need some clarification on.

18           COMMISSIONER GEESMAN: I think the staff can  
19       probably provide some examples of what might  
20       qualify. I find it a little bit curious that  
21       within your entire company of very capable lawyers  
22       you weren't able to come up with some ideas. But  
23       perhaps the staff has some examples.

24           MR. TUTT: Commissioner Geesman, staff  
25       believes that at least initially that copies of QF

1 contracts and quarterly and annual QF reports  
2 should be sufficient for verification. There are  
3 perhaps instances where we would request  
4 additional information and in those cases we would  
5 have to work with some company, Edison, and the  
6 other utilities to determine how they might  
7 provide that information if it violates some of  
8 the confidentiality provisions in their contract.

9 COMMISSIONER GEESMAN: I think he just wanted  
10 to hear you say that.

11 MR. ALVAREZ: Thank you.

12 CHAIRMAN KEESE: Jeff Lam.

13 MR. LAM: Good morning, Chairman, Good  
14 morning, Commissioners.

15 My name is Jeff Lam, I'm a manager at PowerEx  
16 Corporation. PowerEx is a marketing security of  
17 BC Hydro and Power Authority.

18 I just wanted to address some comments from  
19 PowerEx's perspective and to summarize and follow  
20 our written comments on Monday.

21 PowerEx markets the renewable energy credits  
22 of new and existing qualifying renewable  
23 generation facilities in British Columbia.

24 PowerEx wishes to support and participate in  
25 California's legislatively mandated RPS program.



1 As I said, PowerEx has offered written comments to  
2 the proposed guidebook changes which essentially  
3 states that the guidebook needs to acknowledge and  
4 accommodate the interest in and practices between  
5 control areas and the WCC. That determines how  
6 out-of-state suppliers participate in the  
7 California electricity markets.

8 We've made specific and we believe necessary  
9 changes. Essentially those changes are in part  
10 reflected in a significant portion of imports into  
11 California from, for example, the northwest, or  
12 not unit specific, but from system resources and  
13 portfolio resources and power purchase, for  
14 example, from British Columbia.

15 Our revisions to the proposed guidebook where  
16 it continues to reflect that fact and it ensures  
17 that California will benefit from new and existing  
18 competitively priced renewable generation from  
19 out-of-state suppliers.

20 I would be pleased to answer any specific  
21 questions about our proposed revisions to the  
22 proposed guidebook changes.

23 Thank you.

24 CHAIRMAN KEESE: Thank you. You have  
25 submitted these to staff?

1 MR. LAM: Yes. And I brought copies for --

2 CHAIRMAN KEESE: Mr. Tutt.

3 MR. TUTT: I apologize Chairman Keese, but I  
4 don't believe I've seen the PowerEx submittal yet.  
5 And so I would propose that again we will look at  
6 the PowerEx proposed changes and discuss them with  
7 PowerEx and get back to the Commission with any  
8 changes that seem essential.

9 CHAIRMAN KEESE: Satisfactory?

10 MR. LAM: Yes.

11 CHAIRMAN KEESE: Thank you.

12 Yolanda Huang.

13 MS. HUANG: Good morning, Chairman,  
14 Commissioners.

15 This is the first time I've appeared before  
16 you and my concern, as a citizen who is interested  
17 in alternative energy, is that the current  
18 guidebook and terms don't include a very large  
19 potential source of fuel and that is what I would  
20 call urban biomass. And this includes yard waste,  
21 and even more so, post-consumer food waste, either  
22 residential or commercial.

23 And when I looked at your guidelines, I was a  
24 little concerned, because under biomass, it talks  
25 about agricultural crops and I'm not sure that

1 they would actually apply to residential and  
2 commercial food waste which is what's generated in  
3 an urban area. And under the term of municipal  
4 solid waste, my concern would be that under  
5 Condition E, which requires that the technology  
6 remove all recyclable materials and marketable  
7 green waste compostable materials, that in effect  
8 it is at odds.

9 The type of technology that I'm exploring for  
10 possible interest in the Alameda county area is a  
11 system where you take these wastes and you put it  
12 into an anaerobic methane generator. It will be a  
13 closed-system digester. The methane then can be  
14 used in various forms. The easiest form is  
15 actually to use it to generate electricity. And  
16 the digestion process is, in fact, a composting  
17 process, that instead of using the aerobic open  
18 process, it's using an anaerobic process.

19 Currently, a portion of the waste in Alameda  
20 county is composted, but because of the urban  
21 setting, most of it is hauled to the central  
22 valley at least 65 miles away, which is a very  
23 fuel inefficient. And then the compost materials  
24 are hauled back for use in gardens and sold to  
25 nurseries and so forth.

1           Alameda county has not been successful in  
2       getting an open air compost site located within  
3       Alameda county. I think it's understandable that  
4       neighbors are not happy about having this type of  
5       facility located near homes. I have a handout of  
6       a company that I've been talking to in Europe that  
7       has 16 plants worldwide located primarily in urban  
8       areas on small quarter acre sites.

9           So what I'm hoping is that this can be  
10      reviewed in some way to specifically allow this  
11      type of composting so that this fuel can be used  
12      more effectively.

13          I have also taken a look at -- this is a copy  
14      of the Alameda County Waste Characterization Study  
15      that was done in 2000. And from their  
16      characterization study, they were able to discern  
17      that 184,717 tons of material, this is biowaste,  
18      the food waste and green waste, ended up in the  
19      landfill instead of being composted or reused. So  
20      it's a huge source of material. And I would ask  
21      that it be considered in your guidelines under  
22      your definitions.

23          CHAIRMAN KEESE: I am sure that staff would  
24      be willing to look at the measures and we're going  
25      to look at some others. And, Mr. Tutt, do we need

1        comments?

2            MR. TUTT: Well, we will obviously clarify  
3        guidelines to determine questions of eligibility,  
4        if there are any that need to be clarified. I  
5        think staff has felt that such facilities' field  
6        use as described is eligible, is renewable, under  
7        the digester gas category in the guidebook on page  
8        5. And the definition of digester gas is the gas  
9        from the digestion of organic waste, and I believe  
10       the food processing and yard waste that's been  
11       described would qualify as organic waste. So I  
12       believe that these facilities are fully eligible.  
13       And this gives me an opportunity to plug the as  
14       yet unnoticed out to the public June 8th workshop  
15       where we hope to discuss such applications of  
16       urban biomass, urban digester gas systems, as part  
17       of the IEPR copy.

18           COMMISSIONER BOYD: Thank you. I appreciate  
19        those comments, Mr. Chairman, because I actually  
20        thought we had covered this. But apparently a  
21        little additional clarification is needed for some  
22        of the interested and using public. So as  
23        indicated, I'm sure the staff will work on it.  
24        But as also indicated by the workshop, it's  
25        something we feel pretty strongly about. So you

1 have a receptive audience here.

2 MR. HERRERA: Chairman Keese, if I can add  
3 something? If you're done, Commissioner Boyd?

4 COMMISSIONER BOYD: I'm done, thank you.

5 MR. HERRERA: The speaker was correct with  
6 respect to the composting and recycling  
7 requirements. Those requirements are specified in  
8 statute with respect to solid waste gasification  
9 processes. So the statute defines an eligible  
10 renewable resource to include municipal solid  
11 waste conversion or gasification. And that  
12 requirement then goes on to specify a number of  
13 other criteria, including a requirement that a  
14 certain amount of the compostable waste or the  
15 recyclable material be removed from the waste  
16 stream before this stack process or this  
17 conversion or gasification process.

18 CHAIRMAN KEESE: Thank you. I'm sure you  
19 will continue this conversation with Ms. Huang  
20 after this item.

21 Is there anybody else in the audience who  
22 wishes to comment on this?

23 MR. TWITCHELL: Good morning, Members of the  
24 Commission. Jeff Twitchell with Kleinschmidt  
25 Energy and Water Resource Consultants. And I'm

1 kind of coming in here at the 11th hour, I  
2 apologize for that.

3 I talked and left a brief message with Mr.  
4 Tutt yesterday, and all I'm asking for in the  
5 eligibility handbook, pages 11 through 13 in the  
6 redline version, P2, specific water rights that  
7 are needed to eligibility for the RSPs and the  
8 SEPs. I don't have a problem with the way, it  
9 just cites water rights that are available to the  
10 State Water Resources Control Board. And I think  
11 the guideline needs to recognize that there's  
12 other rights that existing water purveyors rely  
13 on, and that's pre-1914 water rights and riparian  
14 claims of water rights that should be included  
15 specifically in the eligibility list. And I hope  
16 over the next couple of days I can go over this in  
17 more detail with Mr. Tutt.

18 CHAIRMAN KEESE: Thank you. And as you've  
19 heard, these continue to be alive and in action,  
20 so a conversation with Mr. Tutt would be  
21 appropriate.

22 MR. TWITCHELL: Yes. Just for clarification,  
23 my concerns really are dealing with the in-state  
24 hydro and not really feeling we have to address  
25 the out-of-state in my comments, out-of-state

1 hydro.

2 CHAIRMAN KEESE: Thank you.

3 Okay, Commissioner Geesman.

4 COMMISSIONER GEESMAN: I would move adoption  
5 of the revised guidelines.

6 CHAIRMAN KEESE: Motion Geesman.

7 COMMISSIONER BOYD: Second.

8 CHAIRMAN KEESE: Second Boyd.

9 Any other conversation?

10 All in favor?

11 (Ayes.)

12 CHAIRMAN KEESE: Opposed?

13 Adopted five to nothing.

14 I think you've done a great job in working on  
15 this and you will continue to meet your  
16 commitments to meet with the parties we've heard  
17 from today. Thank you.

18 MR. TUTT: Thank you, Chairman Keese.

19 CHAIRMAN KEESE: Item 5, Renewable Energy  
20 Program. Potential adoption of revisions to the  
21 Overall Guidebook for the Renewable Energy Program  
22 to reallocate \$30 million in funding from the  
23 discontinued Customer Credit Account to the  
24 Emerging Renewables Program.

25 MR. TUTT: Thank you, Chairman Keese.



1           This item is a request seeking Commission  
2           approval of reallocating a \$30 million plus to the  
3           Emerging account. As you may know, our emerging  
4           renewables program provides for rebates for  
5           photovoltaics and small wind and other renewable  
6           energy systems in the state. And there's been a  
7           significant amount of interest in that program in  
8           the last few years and it's causing us to run out  
9           of money in 2002 and run through a significant  
10          amount of the money allocated for the program in  
11          this current five-year period.

12          As a result, we've added money to the program  
13          earlier in the year, and we are now coming before  
14          you with this item and a related item, Item 6, to  
15          try to transfer enough money into the program to  
16          hopefully last through the rest of this year, if  
17          not further, and allow us time to determine what  
18          to do in the ensuing two years before we get to a  
19          new funding in we believe 2007 when the second  
20          five years of the Renewable Energy program funding  
21          is available to us. We urge your adoption.

22                COMMISSIONER GEESMAN: I would move the  
23                recommendation.

24                CHAIRMAN KEESE: Motion Geesman.

25                COMMISSIONER BOYD: Second.

1 CHAIRMAN KEESE: Second Boyd.

2 Mr. Kelly.

3 MR. KELLY: Steven Kelly with Independent  
4 Energy Producers.

5 And I just had a comment or a request on the  
6 issue of rollovers in general. Is it possible to  
7 get a staff report on a summary of the rollovers  
8 that have occurred to date. I know that there's  
9 been a series of rollovers in the last couple  
10 years.

11 My concern is we have not yet had an auction  
12 for the new resources and we're getting close to  
13 doing that. But we have no real good handle on  
14 whether or not there's going to be sufficient  
15 funds in the public account to fully fund that  
16 program as has been. And I'm starting to get a  
17 little concerned that we're doing rollovers or  
18 transfers without having good information on the  
19 one component of your total program which has been  
20 delayed because of the implementation details.  
21 And we're moving to fix some other programs and  
22 shifting monies around without really having a  
23 good understanding about how it all ties together.

24 And particularly related to Item Number 6,  
25 which follows which deals with a \$15 million

1 transfer of funds from the existing account to the  
2 Emerging Account. I would like to see that either  
3 retained in the existing account or rolled over  
4 into the new account, if it's not needed in the  
5 existing account, to make sure that that program  
6 is going to be fully funded. Following a couple  
7 of auctions, I think we're going to have a better  
8 sense about the extent to which any monies are  
9 going to be needed there. But my guess is it's a  
10 more cost effective use of the dollars, allocating  
11 it to the new account, rather than allocating it  
12 to the Emerging account, and I'm just speaking for  
13 some caution on some of these transfers.

14 I believe the Energy Commission when they  
15 revised the rules for the Emerging account and  
16 reduced the payout. I would be interested in  
17 knowing whether that had any significant impact on  
18 participation. I mean there's two answers to the  
19 problem with the Emerging or the issue of the  
20 Emerging. It's, one, there's so much robust  
21 participation we need more money there, but the  
22 other is that the reason there's so much robust  
23 participation is we have a lot of money in that  
24 account.

25 So I, one, would ask the staff to do a report

1 on the transfers and how that's all played out  
2 over time. And then secondly, particularly on  
3 Item 6, defer that transfer until we have more  
4 information from the procurements for the new  
5 account.

6 COMMISSIONER GEESMAN: Mr. Chairman, I think  
7 Mr. Kelly makes a reasonable request with respect  
8 to having the staff provide a report at our next  
9 business meeting as to the various transfers that  
10 have previously been made. I don't think though  
11 that his suggestion on Item 6 when we get there is  
12 really a good one. We need to do a fairly  
13 delicate balancing act in order to keep all of  
14 these industries in all of these markets going.  
15 In the Committee's judgment, the transfer  
16 contemplated in both Number 5 and Number 6 is  
17 necessary to do that.

18 But I do think you're entitled though to have  
19 an accounting of the transfers that have been made  
20 in the program to date. I would caution you  
21 though that knowing what will be necessary to, as  
22 you put it, fully fund each of the programs is a  
23 pretty difficult task. You need to make some  
24 assumptions and then closely monitor developments  
25 to determine if your assumptions were accurate or

1 not. And as you painfully point out, we don't  
2 have any experience yet with the RPS, but it's  
3 certainly our intention to make certain that there  
4 are adequate funds to fully carry out the intent  
5 of that program.

6 MR. KELLY: I would presume we're going to  
7 have some decent information by the end of the  
8 year for the new account. And though that will  
9 probably be an auction that grabs the lowest  
10 hanging fruit, the next auction will even be more  
11 telling on what it takes to bring on the next  
12 generation of new resources.

13 COMMISSIONER GEESMAN: Well, it seems like  
14 the prospect of auctions has had a beneficial  
15 impact for the pickers of low hanging fruit and,  
16 you know, we need to evaluate how effective that  
17 has been as well. Thus far we haven't spent a  
18 dime of the supplemental energy payment and there  
19 appears to have been a fair amount of low hanging  
20 fruit out there.

21 MR. KELLY: I agree.

22 COMMISSIONER GEESMAN: But this is a program  
23 intended to seed new orchards and new vineyards,  
24 not simply to harvest existing fruit.

25 MR. KELLY: Right.

1           COMMISSIONER BOYD: Mr. Kelly, were you  
2           thinking at the end of the fiscal year or the  
3           calendar year?

4           MR. KELLY: I'm thinking calendar year. I'm  
5           only looking at calendar these days.

6           Thank you.

7           MR. TUTT: Commissioner Geesman and  
8           Commissioners, we would be happy to provide a  
9           report at the next business meeting or at your  
10          pleasure. We do regularly provide quarterly  
11          reports to the legislature that provides  
12          descriptions of program activities and funding  
13          changes. And, in addition, by the end of this  
14          month, we're required by law to provide a biannual  
15          report to the legislature which covers  
16          reallocation of funds in programs.

17          CHAIRMAN KEESE: All right. Mr. Kelly, would  
18          that do?

19          MR. KELLY: That sounds like what I would  
20          like to see.

21          CHAIRMAN KEESE: By the end of the month?

22          MR. TUTT: Sure.

23          CHAIRMAN KEESE: So let's just do the one,  
24          okay.

25          Okay, we have Item 5 before us. And I

1 believe we have a motion by Commissioner Geesman.

2 COMMISSIONER BOYD: And I second.

3 CHAIRMAN KEESE: And second by Commissioner  
4 Boyd.

5 Any further comments?

6 MR. HERERRA: One quick comment,  
7 Commissioner, and that is the fact that these  
8 guidelines again are to the overall program  
9 guidebooks for the Renewable Energy Program.  
10 We've looked at the CEQA issue concerning adoption  
11 of these guidelines and do not think it's a  
12 problem. I would certainly encourage you to adopt  
13 the guidelines.

14 CHAIRMAN KEESE: All in favor?

15 (Ayes.)

16 CHAIRMAN KEESE: Opposed?

17 Adopted five to nothing. Thank you.

18 Item 6.

19 MR. TUTT: A similar item, 15 million from  
20 the Existing Account, Commissioners. And this  
21 funding was originally not required in the SB-98  
22 existing account that covered facility generation  
23 up through the year 2001, in part because the  
24 electricity prices caused such high energy prices  
25 that we were not paying any funds to the existing

1 facilities for a significant period.

2 We conditionally reallocated some of those  
3 funds, 40 million during the energy crisis to try  
4 to induce new renewables to come on line. It was  
5 up to 40 million, depending on what we needed, and  
6 it turns out that due to the penalty structure in  
7 those auctions that we had in 2001 and earlier  
8 that we do not need the money that we had  
9 allocated for that purpose, and so it's available  
10 and we're proposing at this point reallocating 15  
11 million of that amount that we don't need to the  
12 emerging account.

13 COMMISSIONER GEESMAN: I would move the  
14 recommendation.

15 CHAIRMAN KEESE: Motion Geesman. Second?

16 COMMISSIONER BOYD: Second.

17 CHAIRMAN KEESE: Second Boyd.

18 Ms. Kim, I believe you have a statement?

19 PUBLIC ADVISOR KIM: Yes. This is the Public  
20 Advisor. I've been asked by Ms. Julee Malinowski-  
21 Ball of Public Policy Advocates to read this  
22 comment for the record.

23 Open quote, "As recipients of production  
24 incentive existing account funds, the tier-1  
25 facilities, biomass and solar thermal facilities,



1 I'm neutral on this transfer of funds from the  
2 SB- 98 existing account to the Emerging account.  
3 The transfer does not impact the facilities  
4 current needs from the account. This transfer  
5 will also not impact the future needs of the tier-  
6 1 facilities as we are seeking an inflationary  
7 adjustment in the target price beginning July 1st,  
8 2004. Thank you." Close quote.

9 CHAIRMAN KEESE: Thank you.

10 Mr. Kelly, do you want to speak to this one  
11 too?

12 I have a motion and second. All in favor?

13 (Ayes.)

14 CHAIRMAN KEESE: Opposed?

15 Five to nothing.

16 Item 7, Emerging Renewables Program.

17 Possible approval of Solar Schools Program funding  
18 and eligibility guidelines as part of the Emerging  
19 Renewables Program revisions.

20 MS. MERRITT: Good morning, Commissioners.

21 I'm Melinda Merritt with the Renewable Energy  
22 Program staff. And on behalf of the Renewables  
23 Committee, we're seeking approval of proposed  
24 changes to the Emerging Renewables Program  
25 guidebook, and these are specific guidelines for

1 the Solar Schools Program element of the special  
2 funding and eligibility requirements, consistent  
3 with the recently approved inter-agency agreement  
4 with the California Power Authority.

5 The guidelines were the subject of a public  
6 workshop on May 3rd, and the funds will be  
7 matching and the Emerging Renewable Program funds  
8 with Attorney General Alternative Energy Retrofit  
9 Account funds under the sponsorship of CPA. I  
10 respectfully subscribe the \$2.25 million of the  
11 AGAI funds by the end of June and are requesting  
12 your approval of these guidelines today.

13 We propose two minor edits to the proposed  
14 guidelines as they're posted right now. One is a  
15 simple type of ethical error and the second would  
16 add language to the solar schools preliminary  
17 reservation form which allows for faxing of  
18 application materials, along with the mailing  
19 option.

20 CHAIRMAN KEESE: Thank you. Do I have a  
21 motion with the two technical amendments?

22 COMMISSIONER GEESMAN: I make a motion.

23 CHAIRMAN KEESE: Motion Commissioner --

24 COMMISSIONER BOYD: Second.

25 CHAIRMAN KEESE: There's been a motion and

1 second --

2 MR. HERRERA: May I say something. Sorry for  
3 interrupting.

4 CHAIRMAN KEESE: Make sure it's before the  
5 vote.

6 MR. HERRERA. I just wanted to make sure on  
7 the record that in the context of evaluating the  
8 CEQA issue with respect to the RPS guidelines, the  
9 legal office also took a look at the CEQA issues  
10 applied to consumer education guidebook changes,  
11 which is the next item. The guideline revisions  
12 proposed for the Emerging Renewable Program which  
13 is this item and prior as well, concluded that the  
14 project, that is the adoption of these guidelines  
15 was, in fact, exempt from CEQA.

16 CHAIRMAN KEESE: Thank you. Motion and  
17 second.

18 Any public comment? We have a comment.

19 MR. JOHNSON: My name is Mark Johnson, I'm  
20 from Golden Sierra Power. I have a couple of  
21 questions regarding the 2.5 or \$2.25 million and  
22 the 15 schools that are allocated those funds or  
23 have a opportunity. What does that relate to in  
24 kW?

25 MS. MERRITT: Well, depending the size of the

1 systems that are requested for the preliminary  
2 reservation, we're looking at subscribing about  
3 half of the available funds, which would be --  
4 we're expecting anywhere from 22 to 45 systems to  
5 be approved at 20 kW per system.

6 MR. JOHNSON: But there are already 15  
7 schools, I believe, in 2002; is that correct?

8 MS. MERRITT: There are 15 schools that will  
9 be given a preference.

10 MR. JOHNSON: And how many kW does that  
11 equal?

12 CHAIRMAN KEESE: Fifteen and 20 is 300.

13 MR. JOHNSON: No. Well, but there are 15  
14 schools that already have a reservation in there.  
15 My point is I have 14 schools that were submitted  
16 last year under a performance basis incentive  
17 program and I was wondering if those schools would  
18 also fit into the priority list because we were  
19 unable to get those programs functioning based on  
20 waiting for this program. If that's the case, my  
21 programs are all based on 30 kW and with those 13  
22 schools we'll take away that money.

23 With those 15 schools and my 30 kW schools,  
24 that \$2.25 million will be gone. So I'm just  
25 wondering if there are any other available funds

1 in the future that will come in for the schools,  
2 one, and two, if not, can my programs that I have  
3 that I filed last summer be included in the  
4 priority list?

5 MR. HERRERA: Chairman, if I can speak to  
6 that.

7 CHAIRMAN KEESE: Sure.

8 MR. HERRERA: You may recall back in October/  
9 September 2002, that timeframe, the Commission had  
10 adopted guidelines to the Emerging Renewable  
11 Program to disseminate these funds from the  
12 California Power Authority. Before we actually  
13 got possession with the Authority to spend that  
14 money, the legislature got involved and decided  
15 that they wanted to review the use of that money.

16 This money originates from AG settlements  
17 with various energy companies. And so there was a  
18 long hold that was put on the money and approval  
19 was finally obtained last year, late last year.  
20 So what had happened was as all this was going on,  
21 there were a number of schools, 15 or so, that  
22 applied for funding, were issued preliminary  
23 reservations and were sent letters saying if the  
24 legislature works it out and approves the use of  
25 this money, we will revisit your preliminary

1       reservations, essentially give them force, and  
2       allow you to move forward with installation of  
3       your system. That's why the guidelines provide  
4       preference to those 15 schools.

5               CHAIRMAN KEESE: And the 14 we're talking  
6       about here came after that?

7               MR. HERRERA: I believe so.

8               MR. JOHNSON: They came last summer. We've  
9       applied using an incentive-based program that we  
10      had to work through with the Energy Commission  
11      with our contracts. We didn't finish those  
12      contracts until February. So at the time towards  
13      that January and February time we were also  
14      advised through different sources in the  
15      Commission and PG&E and other sources that we were  
16      looking at that this program was becoming more  
17      alive again and that we should probably wait with  
18      our districts before we moved forward with any  
19      type of incentive-based program. Thus we're  
20      sitting here, you know, looking to move forward  
21      with some of the programs.

22              I have funding with PG&E that we'd like to be  
23      able to tie in with our school programs for a  
24      district up in El Dorado County. We also have  
25      several other districts in El Dorado County that

1 have gone through an application process. We have  
2 numbers, I have file numbers, but those we've let  
3 cancel because we weren't going to be using the  
4 incentive-based because we knew that this program  
5 was becoming available.

6 CHAIRMAN KEESE: Did I hear you say, Mr.  
7 Herrera, that the 15 had been told they had a  
8 priority and you feel that we're legally obligated  
9 to those 15 in that position, and these 14 could  
10 be for funds after that?

11 MR. HERRERA: I believe that is right. The  
12 15 schools were notified by letter and explained  
13 the situation with the funds and the fact that the  
14 Commission could not award them monies from the  
15 CPA contract until it had been resolved through  
16 the legislature. And they were also told that if  
17 it was resolved positively, that then they could  
18 qualify for the amounts that they had initially  
19 applied for.

20 MR. JOHNSON: Commissioners, my request is  
21 not to overcome their priority, but to come into a  
22 second position.

23 CHAIRMAN KEESE: To come in to second?

24 MR. JOHNSON: That's correct.

25 CHAIRMAN KEESE: And I think we heard that

1       there's going to be another how many?

2           MS. MERRITT: We're not sure how many systems  
3       totally the available money will be able to fund,  
4       but if all 15 schools choose to reapply and are  
5       approved grants, I would say that there's another  
6       15 to 20 systems that we'll be able to fund.

7           CHAIRMAN KEESE: After those 15?

8           MS. MERRITT: After that. It's first come,  
9       first served.

10          MR. HERRERA: It is first come, first served,  
11       so I would encourage this gentleman, if he could  
12       get his applications in today after the Commission  
13       adopts these guidelines, assuming it does so.

14          MS. MERRITT: Regrettably, it's a very small  
15       fund of money that's managed to be saved.

16          MR. JOHNSON: Very well. Thank you.

17          CHAIRMAN KEESE: We have a motion and a  
18       second. Any further comment?

19               All in favor?

20               (Ayes.)

21          CHAIRMAN KEESE: Opposed?

22               Adopted five to nothing.

23               Item 8, Renewable Energy Program. Possible  
24       adoption of substantive changes to the Guidebook  
25       for the Consumer Education Program.



1           MR. TUTT: Good morning again, Chairman Keese  
2 and Commissioners.

3           CHAIRMAN KEESE: It will be afternoon pretty  
4 soon.

5           MR. TUTT: The item before you is making some  
6 slight changes to the consumer education  
7 guidelines to allow us to more easily and  
8 completely fund market building activities such as  
9 tracking and developing a rapid trading or  
10 tracking systems. There is actually small changes  
11 in the wording of the guidebook to make it clear  
12 that we are intending to use some of the consumer  
13 education funds for this kind of market building  
14 activity and I would encourage you to adopt the  
15 item.

16          CHAIRMAN KEESE: Thank you. Do we have a  
17 motion?

18          COMMISSIONER GEESMAN: So moved, Mr.  
19 Chairman.

20          CHAIRMAN KEESE: Motion Geesman.

21          COMMISSIONER BOYD: Second.

22          CHAIRMAN KEESE: Second Boyd.

23          Any conversation?

24          All in favor?

25          (Ayes.)

1 CHAIRMAN KEESE: Opposed?

2 Adopted five to nothing.

3 Thank you Renewables staff for filling our  
4 day.

5 Item 9, Order Instituting Investigation.  
6 Possible adoption of an order instituting  
7 investigation of the causes of petroleum  
8 infrastructure development constraints, Docket  
9 Number 04-SIT-1.

10 MR. BUELL: Good morning, Commissioners. My  
11 name is Richard Buell, I'm here for the staff.

12 I won't belabor this point, but the high  
13 price of gasoline has got all California citizens  
14 concerned about the price of gasoline. The Energy  
15 Commission has conducted a number of studies over  
16 the past several years on the supply and demand  
17 for transportation fuels for the sitting  
18 infrastructure. And our 2003 integrated policy  
19 report to the Commission concluded that  
20 California's importing increasing amounts of crude  
21 oil, blend components, and finished gasoline and  
22 diesel fuels to meet California's growing demand,  
23 yet the state's facilities don't have capacity to  
24 handle the increased flow of product effectively.  
25 The purpose of the OII or Order Instituting

1 Investigation proceeding is to continue that  
2 evaluation about the constraints on the state's  
3 petroleum refining import and storage and pipeline  
4 systems and to examine to the extent which  
5 improvements in the permitting or other options  
6 could help alleviate that infrastructure  
7 constraints.

8 The OII will be overseen by the Siting  
9 Committee, but it will also be coordinated with  
10 the Transportation Committee.

11 COMMISSIONER GEESMAN: Mr. Chairman, the OII  
12 includes a reference to one of the members of  
13 Siting Committee that's not yet on the Siting  
14 Committee, so you may want to defer this until  
15 after we actually make our committee assignments  
16 later in the meeting and then take it up then.

17 CHAIRMAN KEESE: Does anyone have any  
18 questions on this item at this time? Seeing none,  
19 we will defer this item until we take up Item 16.  
20 Thank you.

21 Item 10, Butte County. Possible approval of  
22 a loan to Butte County for \$390,000 through the  
23 Energy Conservation Assistance Account or Bond  
24 fund to install a 135 kW photovoltaic system at  
25 East County Jail.

1 MR. WANG: Good morning, Commissioners. My  
2 name is Joseph Wang and I'm the CEC project  
3 manager for this loan.

4 Butte County is applying for a \$390,000 loan  
5 to install a 135 kW photovoltaic system at the  
6 East County Jail. The staff's approval is based  
7 on the special condition that the vendor will  
8 provide a performance guarantee for their  
9 photovoltaic system. If the kilowatt/hour  
10 production is not achieved, the vendor will  
11 install additional solar panels at no cost to the  
12 county. And the project is expected to save about  
13 \$39,000 annually, and has a simple payback of ten  
14 years. This county has received a reservation  
15 from PG&E's Renewable Rebate and they also have  
16 come up with their own funds to fund this project.  
17 And the staff has reviewed this project and  
18 recommends approval of this loan.

19 CHAIRMAN KEESE: Thank you.

20 Do I have a motion.

21 COMMISSIONER PFANNENSTIEL: Yes, I move it.

22 CHAIRMAN KEESE: Commissioner Pfannenstiel.

23 COMMISSIONER ROSENFELD: Second.

24 CHAIRMAN KEESE: Second Rosenfeld.

25 All in favor?

1 (Ayes.)

2 CHAIRMAN KEESE: Opposed?

3 Adopted five to nothing.

4 Jackie is this your first meeting?

5 COMMISSIONER PFANNENSTIEL: No, it's my  
6 second.

7 CHAIRMAN KEESE: Thank you. Ms. Pfannenstiel  
8 jumped into this activity so fast I was afraid I  
9 didn't recognize your presence here. But we  
10 welcome you at your second meeting.

11 COMMISSIONER PFANNENSTIEL: Thank you.

12 CHAIRMAN KEESE: That item is adopted.

13 Item 11, City of San Buena Ventura. Possible  
14 approval of a loan to the City of San Buena  
15 Ventura for \$400,000 through the Energy  
16 Conservation Assistance Account and Bond funds to  
17 install a 205 kW photovoltaic system.

18 MR. WANG: Mr. Chairman, I'm also the project  
19 manager for this loan, and this is a similar  
20 photovoltaic system. This is a 205 kW system, it  
21 will be installed at the city operations center  
22 roof. And they are requesting a \$400,000 loan  
23 from our ECAA Account to install this system. And  
24 they also received a reservation from SEE for  
25 their renewable rebate. And they were also paid

1 for the project costs with their own funds. And  
2 the simple payback is also ten years. And the  
3 staff recommends approval.

4 CHAIRMAN KEESE: Thank you.

5 Do we have a motion?

6 COMMISSIONER PFANNENSTIEL: I move that.

7 CHAIRMAN KEESE: Motion Pfannenstiel.

8 COMMISSIONER ROSENFELD: Second.

9 CHAIRMAN KEESE: Second Rosenfeld.

10 All in favor?

11 (Ayes.)

12 CHAIRMAN KEESE: Opposed?

13 Adopted five to nothing.

14 Thank you.

15 Item 12, Best Translation Services, LLC.

16 Possible approval of contract 600-03-025 for  
17 \$20,309 in federal funds to assist the Energy  
18 Commission in providing simultaneous  
19 interpretation and business logistical support  
20 services throughout the US/Mexico border region.

21 And it speaks for itself.

22 COMMISSIONER BOYD: Move adoption.

23 COMMISSIONER GEESMAN: Second.

24 CHAIRMAN KEESE: Motion Commissioner Boyd and  
25 second Commissioner Geesman.

1 All in favor?

2 (Ayes.)

3 CHAIRMAN KEESE: Opposed?

4 Adopted five to nothing.

5 Thank you.

6 Item 13, Inter-con Security Systems, Inc.

7 Possible approval of contract 200-03-009 for  
8 \$255,000 to renew the master services agreement  
9 for unarmed security guards through January 31st,  
10 2006.

11 COMMISSIONER GEESMAN: I'll move this item.

12 CHAIRMAN KEESE: Motion Commissioner Geesman.

13 COMMISSIONER PFANNENSTIEL: Second.

14 CHAIRMAN KEESE: Second Commissioner  
15 Pfannenstiel.

16 Any comments?

17 All in favor?

18 (Ayes.)

19 CHAIRMAN KEESE: Opposed?

20 Adopted five to nothing.

21 Thank you. We're going to be secure.

22 Item 14, University of California, Office of  
23 the President. Possible approval of an amendment  
24 to Work Authorization MR-001 with the UCOP for the  
25 management and administration of research,

1 development and demonstration awards for the  
2 Public Interest Research Program in the amount of  
3 \$3,545,455.

4 Morning.

5 MR. MAGALETTI: Good morning Mr. Chairman,  
6 Commissioners. My name is Mike Magaletti. I'm  
7 standing in for Gary Klein who is the contract  
8 manager on the master research agreement contract.

9 I come before you today to ask for an  
10 amendment to a work authorization, the first work  
11 authorization under the contract which funds  
12 administrative services. This is by agreement  
13 limited to a maximum amount of ten percent of the  
14 total contract.

15 We are doing a single amendment at this time  
16 with an extended period and a large amount in  
17 order to avoid coming back to you every 12 months.

18 One of the other features of this particular  
19 administrative work authorization is that although  
20 the university is allowed to bill us the ten  
21 percent, they actually bill us what it costs up to  
22 ten percent. And at this point in time, we have  
23 about \$11 million allocated under work  
24 authorizations and we have been charged between  
25 three and four hundred thousand dollars in



1 management costs. So that is much less than the  
2 ten percent. That is one of the singular features  
3 of this contract and one of the reasons why we are  
4 using it and have funded it to a large extent.

5 Are there any questions?

6 COMMISSIONER ROSENFELD: I move it.

7 CHAIRMAN KEESE: Motion Commissioner  
8 Rosenfeld.

9 COMMISSIONER GEESMAN: Second.

10 CHAIRMAN KEESE: Second Commissioner Geesman.

11 No more questions?

12 All in favor?

13 (Ayes.)

14 CHAIRMAN KEESE: Opposed?

15 Five to nothing.

16 Thank you.

17 MR. MAGALETTI: Thank you.

18 CHAIRMAN KEESE: Item 15, Peters Shorthand  
19 Reporting Corporation. Possible approval of three  
20 contracts to retain the services of trained  
21 hearing reporters and transcribers as necessary to  
22 produce verbatim transcripts, July '04 to the end  
23 of June '05.

24 Do I have a motion?

25 COMMISSIONER PFANNENSTIEL: So moved.

1 CHAIRMAN KEESE: Motion Pfannenstiel.

2 COMMISSIONER BOYD: Second.

3 CHAIRMAN KEESE: Second Boyd.

4 All in favor?

5 (Ayes.)

6 CHAIRMAN KEESE: Opposed?

7 Adopted.

8 Committee Assignments. Discussion of  
9 possible approval of committee structure.

10 We have a document in front of you. In fact,  
11 we have two documents in front of you.

12 The first one would be committee assignments  
13 for the Commission and the second is Siting  
14 Committee assignments.

15 I request a motion on the first one, or both  
16 of them, as you wish.

17 COMMISSIONER GEESMAN: I'll move the first  
18 one, Mr. Chairman.

19 CHAIRMAN KEESE: Motion Commissioner Geesman  
20 on Commission committee assignments.

21 COMMISSIONER BOYD: Second.

22 CHAIRMAN KEESE: Second Commissioner Boyd.

23 All in favor?

24 (Ayes.)

25 CHAIRMAN KEESE: Opposed?

1           Adopted five to nothing.

2           COMMISSIONER GEESMAN: Do we ordinarily adopt  
3 the second one?

4           CHAIRMAN KEESE: Well, we specifically adopt  
5 after each case is approved, the committee for the  
6 case. With the changes that have taken place in  
7 commissioners, we're having these things.

8           COMMISSIONER GEESMAN: I'll move the second.

9           COMMISSIONER BOYD: Second.

10          CHAIRMAN KEESE: Motion Commissioner Geesman,  
11 second Commissioner Boyd.

12          All in favor?

13          (Ayes.)

14          CHAIRMAN KEESE: Opposed?

15          Five to nothing.

16          You're correct, we're not making -- it's not  
17 a whole new list.

18          With that adoption, I will go back to Item 9,  
19 which we had heard previously.

20          COMMISSIONER GEESMAN: I'll move that one.

21          CHAIRMAN KEESE: Motion Commissioner Geesman  
22 on the Order Instituting Investigation.

23          COMMISSIONER BOYD: Second.

24          CHAIRMAN KEESE: Second Commissioner Boyd.

25          All in favor?

1 (Ayes.)

2 CHAIRMAN KEESE: Opposed?

3 Adopted five to nothing.

4 Minutes of May 5th. Do I have a motion?

5 COMMISSIONER ROSENFELD: I move the minutes.

6 CHAIRMAN KEESE: Motion Rosenfeld.

7 COMMISSIONER PFANNENSTIEL: Second.

8 CHAIRMAN KEESE: Second Pfannenstiel.

9 All in favor?

10 (Ayes.)

11 CHAIRMAN KEESE: Opposed?

12 Adopted five to nothing.

13 Commission Committee and Oversight.

14 Chief Counsel's Report.

15 CHIEF COUNSEL CHAMBERLAIN: Mr. Chairman, I

16 have two items to report to you, both good news.

17 The first is that last Friday the Court of Appeals

18 for the First Appellate District entered a

19 decision in what I believe is the last of the

20 Metcalf Energy Center litigation. This was a case

21 that was brought by the City of Morgan Hill

22 against the Bay Area Air Quality Management

23 District in which the Energy Commission intervened

24 because what was being challenged was the PSV

25 permit that had been issued in that case in

1 conjunction, in cooperation with the Energy  
2 Commission, between the Bay Area Air Quality  
3 Management District and the Energy Commission.

4 We have a published decision. This is the  
5 third published opinion that has emanated from the  
6 Metcalf Energy Center and hopefully the last  
7 decision that will have to be entered relating to  
8 that case.

9 I'm pleased to report that the arguments that  
10 we made were for the most part accepted by the  
11 Court. The decision of the San Francisco Superior  
12 Court to dismiss this case was affirmed in full.  
13 However, there is considerable discussion in this  
14 case that I think will be relevant to our  
15 understanding of the law in future siting cases.  
16 And so after I have had a chance to discuss this  
17 with all the attorneys in my office, we will be  
18 going to the Siting Committee and discussing what,  
19 if anything, that committee might want to do vis-  
20 a-vis future siting cases.

21 The second item I want to report on is, I  
22 think you're all aware of the partnership between  
23 the Energy Commission and the Western Governors'  
24 Association to try to establish a Western  
25 Renewable Energy Generating Information System or

1       REGIS. Thanks to the good work of Mr. William  
2       Westerfield of my office, we received yesterday a  
3       letter from Pat Wood, Chairman of the Federal  
4       Energy Regulatory Commission, agreeing with Mr.  
5       Westerfield that that system as described would  
6       not fall under FERC's jurisdiction. This has been  
7       important to a number of participants in that  
8       system. And so I consider this to be again  
9       another piece of good news.

10       COMMISSIONER GEESMAN: That could be the  
11       first agreement in writing Chairman Wood has  
12       entered into with a California state government  
13       attorney.

14       CHIEF COUNSEL CHAMBERLAIN: In addition, I  
15       know you have a memo that indicates that we need  
16       to go into closed session for a couple of  
17       litigation matters.

18       CHAIRMAN KEESE: We do, huh? All right.

19       CHIEF COUNSEL CHAMBERLAIN: It should be  
20       brief.

21       CHAIRMAN KEESE: And I'll step back to the  
22       previous item which is the Committee on Oversight  
23       and the Committee does have four items to bring to  
24       you.

25       As we've indicated informally in other

1 settings, this administration seeks much earlier  
2 input from organizations and entities. And in our  
3 case, the four bills we are bringing before you  
4 are bills that once we have taken a position, we  
5 will be representing to the legislature that the  
6 Energy Commission has a position on these bills.

7 Cecila, would you present them?

8 MS. MARTIN: Sure.

9 CHAIRMAN KEESE: I think each of the  
10 Commissioners has a list of the five bills in  
11 front of them.

12 MS. MARTIN: Does everyone have the list?  
13 The first bill is Assembly Bill 653, Speaker Nunes  
14 bill on Energy Efficiency for Public Buildings.  
15 What this bill does is reinstate a bond authority  
16 for the State Public Works Board which encourages  
17 public buildings to do efficiency measures. We're  
18 recommending a neutral position on this bill. And  
19 we provided comments that critique the existing  
20 program and made notice of some improvements that  
21 may be necessary.

22 I don't know if you want to take these one at  
23 at time or if you want me to go through all four?

24 COMMISSIONER GEESMAN: Why would we be  
25 neutral as opposed to supportive?

1 MS. MARTIN: You know, it would be neutral  
2 because it's a program that we only have a  
3 relationship with. It resides in the Department  
4 of General Services. They have had some budget  
5 constraints that we really don't have the  
6 authority to comment on. But what we have done is  
7 say that we like the idea of efficiency in public  
8 buildings. We think that it could be a successful  
9 program, if, in fact, they were to reconstitute  
10 this entity. And we don't make a comment on  
11 funding, budget funding.

12 COMMISSIONER GEESMAN: So we're supportively  
13 neutral.

14 MS. MARTIN: Yes. We support the concept, we  
15 just --

16 COMMISSIONER GEESMAN: Neutral with a happy  
17 face.

18 MS. MARTIN: -- can't say support despite  
19 your budget constraints.

20 CHAIRMAN KEESE: The agency to which we  
21 report is attempting to see if there is a clone  
22 for this neutral support.

23 We're going to have these in the future. Do  
24 you want to just hear them all and then take a  
25 motion?



1           Okay, we'll do that.

2           Item 2.

3           MS. MARTIN: Item 2 is Assembly Bill 1684.

4           It's on distributed generation resources. This  
5           was a bill about last year that made some changes  
6           to the self-generation incentive program which  
7           resides at the Public Utilities Commission. This  
8           would allow combustion operated distributed  
9           generation technologies that use only natural gas  
10          that could not be used by the system to qualify  
11          for this self-generation program, if they're able  
12          to show that there is some reduction of emission  
13          on their site, their operational site, overall.  
14          And we've made a clarifying amendment. So we're  
15          recommending a support with amendments position.

16          CHAIRMAN KEESE: Any questions?

17          Seeing none, Item 3.

18          MS. MARTIN: Item 3 is AB-2304, Assembly  
19          Member Richmond. It's on energy resources. This  
20          is actually the Energy Commission proposal to  
21          reduce unnecessary reporting requirements and to  
22          consolidate existing requirements, as well as get  
23          rid of an obsolete statute on a fund that no  
24          longer exists. This will eliminate our quarterly  
25          MTBE reporting, since MTBE is no longer contained

1 in gasoline and it would consolidate our  
2 renewables reporting to one annual report.

3 CHAIRMAN KEESE: And it's essentially our  
4 bill?

5 MS. MARTIN: Yes.

6 CHAIRMAN KEESE: Okay. The fourth one.

7 MS. MARTIN: The fourth one is Senate Bill  
8 1776, Senator Bowen, Chair of the Senate Energy  
9 Committee. And this bill would essentially extend  
10 our six-month signing process. This is a process  
11 that expired at the end of last year, and this  
12 would continue it for an additional two years.

13 CHAIRMAN KEESE: Thank you.

14 COMMISSIONER PFANNENSTIEL: I move adoption.

15 CHAIRMAN KEESE: Motion Pfannenstiel.

16 COMMISSIONER GEESMAN: Second.

17 CHAIRMAN KEESE: Second Geesman.

18 All in favor?

19 (Ayes.)

20 CHAIRMAN KEESE: Opposed?

21 Adopted five to nothing.

22 MS. MARTIN: Thank you.

23 CHAIRMAN KEESE: Executive Director's report.

24 MS. HALL: Good morning, Commissioners. I'm  
25 sitting in for Bob, he has been called away for a

1 meeting that was rescheduled at the last minute.

2 CHAIRMAN KEESE: And the Senate Budget  
3 Committee is a good place to be.

4 MS. HALL: That is a good place for him to  
5 be. And I simply wanted to remind you that  
6 immediately following today's session would be a  
7 briefing on demand/response, as well as a brief  
8 discussion of some concepts that staff has been  
9 working on.

10 CHAIRMAN KEESE: Thank you. And we will do  
11 that in my office and we will do it after we have  
12 done what's promised to be a very brief executive  
13 session.

14 If you can locate a conference room in this  
15 building that's empty, we would be happy to go  
16 there.

17 There are no conference rooms available at  
18 this time. So we will go to my office, and if  
19 it's possible to do anything else, we'll do  
20 something else.

21 Anything else, Val?

22 MS. MARTIN: No, that's it.

23 CHAIRMAN KEESE: Public Advisor's report?

24 PUBLIC ADVISOR KIM: Very quickly. I'd like  
25 to highlight three items.

1           Tomorrow CEC will hold California Geothermal  
2           Summit here in Hearing Room A co-sponsored by the  
3           Department of Energy. And on Thursday of next  
4           week, May 27th, CEC will conduct a public  
5           consultation workshop to discuss forestry protocol  
6           guidance to the California Climate Action  
7           Registry. And also next week, Thursday and  
8           Friday, the CEC will conduct a workshop to receive  
9           comments on possible updates of the appliance  
10          efficiency regulations. That's all.

11          CHAIRMAN KEESE: Thank you, Ms. Kim.

12          And we move into public comment.

13          Mr. Van Vleck. Related to Item 2.

14          MR. VAN VLECK: Thank you, Chairman Keese.

15          Stanley Van Vleck representing the Appliance  
16          Home Manufactures. And if I may, it will be  
17          brief, we know you've heard this issue many times  
18          over. Today what we'd like to do is just to make  
19          sure to incorporate by reference our comments,  
20          most of which will be in writing. We want, again,  
21          to save the time.

22          The only thing that we want to do is identify  
23          potentially new information that we have to be  
24          able to at least provide you that could be  
25          incorporated in the record that is provided to the

1 Department of Energy. And really it is, speaking  
2 bluntly, it seems that both the Energy Commission  
3 and the industry have a recent agreement to agree  
4 to disagree on what the costs are and that's  
5 really our only primary disagreement and  
6 opposition to what you're proposing.

7 And what we did is we've identified an agency  
8 that we could go to and a private company that had  
9 both government experience, as well as private  
10 experience, and the company is the Sayer Group,  
11 they're located here in Sacramento. They have  
12 people who are out of the legislature, out of the  
13 Treasurer's office, as well as people who are out  
14 of some of the Big Five accounting firms. We've  
15 had them review our numbers and they've provided  
16 analysis as well that may provide you some  
17 additional information as part of your decision  
18 making process. So if we can, we'd like to submit  
19 that as part of the record.

20 In addition to our opposition, we'd also like  
21 to reflect that the California Manufacturers'  
22 Association still opposes as well, as does the  
23 California Retailers' Association. And it's our  
24 understanding the the retailers will be getting a  
25 document to you today or tomorrow some time.

1 Thank you very much, Mr. Chairman.

2 CHAIRMAN KEESE: Thank you.

3 Any other public comment?

4 Great. Now we will recess to my office for  
5 an executive session, a brief executive session,  
6 and thereafter for an informational meeting at  
7 which no action will be taken.

8 Thank you.

9 (Thereupon the California Energy  
10 Commission Business meeting was  
11 adjourned at 11:22 a.m.)

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## 1 CERTIFICATE OF SHORTHAND REPORTER

2 I, MICHAEL J. MAC IVER, a Shorthand  
3 Reporter, do hereby certify that I am a  
4 disinterested person herein; that I reported the  
5 foregoing California Energy Commission proceedings  
6 in shorthand writing; that I thereafter caused my  
7 shorthand writing to be transcribed into  
8 typewriting.

9 I further certify that I am not of  
10 counsel or attorney for any of the parties to said  
11 California Energy Commission proceedings, or in  
12 any way interested in the outcome of said  
13 California Energy Commission proceedings.

14 IN WITNESS WHEREOF, I have hereunto set  
15 my hand this 28th day of May 2004.

16  
17  
18  
19  
20  
21 Michael J. Mac Iver

22 Shorthand Reporter